

II. Present Situation:

Exceptional Education

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school. As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.

Postsecondary Education for Students with Developmental Disabilities

The 2010 Legislature directed the legislative Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a review of postsecondary educational opportunities for individuals with developmental disabilities.¹ Section 393.063, F.S., defines developmental disability to mean “a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.” The legislation required the review to address opportunities for postsecondary education and vocational training; transitioning from school to the workforce; and best practices for providing such postsecondary education and training services, including any notable public-private partnerships. According to the report, students with developmental disabilities represent approximately 13 percent of all exceptional student education (ESE) students, or 44,113 of the 341,632 ESE students in 2009-2010.² Of the 7,920 students with developmental disabilities who exited school districts in 2007-2008, 905 enrolled in adult education programs and 734 enrolled in postsecondary vocational, college, or university programs. The remaining 6,281 students did not continue on to adult education or postsecondary programs in the year after they left high school.³

The OPPAGA review found that while all school districts provide basic transition services to help ESE students with developmental disabilities move into the workforce and live independently after they leave high school, at least 13 school districts have developed programs that provide elements of postsecondary education for students with developmental disabilities through partnerships with public and private universities and school district technical centers.⁴ The programs are funded by ESE funds, and students can participate until they receive a standard high school diploma or reach age 22.

Two postsecondary institutions, Indian River State College in Vero Beach and Brewster Technical Center in Tampa, offer Postsecondary Adult Vocational certificates of completion in

¹ ch. 2010-155, F.S. Readable at: <http://laws.flrules.org/2010/155>.

² *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, p.2. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

³ *Id.*, p.2.

⁴ *Id.*, p.3.

specific workforce areas for students with developmental disabilities. The University of North Florida in Jacksonville provides an on-campus transition program where students with developmental disabilities audit classes with nondisabled students and live in student housing.⁵

The federal Higher Education Opportunity Act reauthorization⁶ creates incentives for states to provide transition to postsecondary education programs for students with intellectual disabilities—those with mental retardation or a cognitive impairment characterized by significant limitation in intellectual and cognitive functioning who are or were provided a free and appropriate public education under the Individuals with Disabilities Education Act. Student with intellectual disabilities are a subset of the population of students with developmental disabilities. Three Florida institutions—the University of South Florida, St. Petersburg (USFSP); University of North Florida (UNF); and Lynn University have received a grant, funded for \$421,000 a year for 5 years, to form a consortium⁷ to oversee the following grant activities:

- Expansion of the quality and depth of the current transition programs on the campuses of USFSP, UNF, and Lynn University;
- Support for other existing transition programs for students with intellectual disabilities at institutions of higher education across the State of Florida; and,
- Expansion of the transition programs in these institutions across Florida.

Funding for Exceptional Student Education

Exceptional Student Education (ESE) programs and services are provided by federal, state, and local funds. Under the Individuals with Disabilities Education Improvement Act (IDEA), federal special education funds are distributed through state grant programs and discretionary grant programs. Part B of the law, the main program, authorizes grants to state and local education agencies to offset part of the costs of the education needs of children with disabilities, ages 3 through 21.

Proposal for a New Postsecondary Institution for Students with Developmental Disabilities

The 2010 Legislature required OPPAGA to include in its review the feasibility and cost of establishing a residential vocational institution to provide postsecondary education and vocational training for individuals with developmental disabilities.⁸ The review found that an advantage of creating such an institution would be that it could provide postsecondary education for students with developmental disabilities beyond the age of 22, which is the current limit for programs receiving ESE funding. Students could attend even if they had not received a standard high school diploma, which is required by state colleges and universities. A potential disadvantage is that the students would be in a separate community of their disabled peers and they would not have the interaction with non-disabled students that they would have on a traditional college campus. The OPPAGA review points out that certain federal student aid

⁵ *Id.*, p.5.

⁶ P.L.110-315

⁷ The Florida Consortium on Postsecondary Education Transition Programs and Intellectual Disabilities

⁸ *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, p.2. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

programs available for students with intellectual disabilities require that the students be in a program where they participate on at least a half-time basis with individuals without disabilities.⁹

The Dan Marino Foundation

Dan Marino is an acclaimed football quarterback who played for the Miami Dolphins from 1983 to 1999. He was inducted into the Pro Football Hall of Fame in 2005.¹⁰ Dan Marino and his wife, Claire, established the Dan Marino Foundation¹¹ in Broward County in 1992 to assist children with special needs. The Foundation's stated mission is to "open doors" towards independence for children with special needs, teenagers transitioning from foster care and young adults with disabilities."¹² The foundation supports treatment programs, provides outreach services, advances scientific research, and fosters independence through employment and daily living transition programs.¹³

III. Effect of Proposed Changes:

This bill would create the Dan Marino Foundation Florida Vocational College as a public residential postsecondary school located in Broward County. The college is established as a component of the K-20 public education system.

Population to be Served

The school would serve students, ages 18 – 26, who have developmental disabilities and who have either graduated from high school or who did not graduate from high school and are no longer eligible for exceptional student education funding because they are older than 21 years of age. Students would have to meet the enrollment criteria established by the college's board of trustees. The school would provide educational programs and support services including services on an out-reach basis. The college would be required to adopt a 5-year master plan to specify the mission and objectives of the college and procedures for measuring the college's progress toward meeting its objectives. The bill does not state what type of degree, certificate, or other credential the institution would award, and the terms school and college are both used to refer to the Dan Marino Foundation Florida Vocational College. While the population is defined, the type of institution and the level of education it would provide are not clear in the bill.

Board of Trustees

The college's 7-member board of trustees would be appointed by the Governor and confirmed by the Senate. Board members must have resided in Florida for at least 10 years prior to the appointment. It is not clear why the bill requires 10 years of Florida residency to serve on the board, as that may reduce the number of qualified applicants. One of the board members would be the chair of the Dan Marino Foundation, one would be the chief executive officer of the Dan Marino Foundation, and two of the board members would be persons with developmental

⁹ *Id.*

¹⁰ http://www.profootballhof.com/hof/member.aspx?PLAYER_ID=238

¹¹ <http://www.danmarinofoundation.org/>

¹² *Id.*

¹³ *Id.*

disabilities. They would serve 4-year terms and would be reimbursed for travel expenses under s. 112.061, F.S.

College Funds

Funds would be deposited in the State Treasury, except for those funds received as a gift, donation or bequest; collected by students; or held in accounts for individual students. The board could invest moneys and securities in The Common Fund, an Investment Management Fund¹⁴ for nonprofit educational institutions. The board would submit a Legislative budget request to the DOE for operations and fixed capital outlay. The Auditor General would be required to conduct annual audits of the accounts and records of the college.

College Property

The board must ensure that the college coordinates with local governing bodies for facilities construction. Property received as a gift or bequest would vest with the board of trustees, and the board could sell such property. The title to the property and assets of the college would vest in the State Board of Education. The college's request for fixed capital outlay funds would be reviewed by the DOE for consistency with the college's campus master plan, educational plant survey, and facilities master plan, and projections of facility space needs could exceed the norm criteria established in state requirements. This provision would allow the college to address the potential physical accommodations of its student population.

Personnel

The board would be responsible for the hiring and firing of employees including the college president. The school's employees would be state employees whose classification and pay would be set by the board, subject to approval by the State Board of Education. Employees of the college would have to undergo a level 2 background screening under the provisions of ch. 435, F.S. The college could grant exemptions from disqualification as provided in s. 435.07, F.S. The bill provides criminal penalties for failure to disclose a material fact or from using the information obtained from the background screening for other purposes.

Campus Police

The board could hire campus police officers who would have to meet the minimum standards of the Department of Law Enforcement's Criminal Justice Standards and Training Commission. Campus police would have arrest powers for a violation of law that occurred on school property, and the arrest could be made on campus or off campus. The college must report crime statistics annually to the board of trustees and the Commissioner of Education.

Rules

The board is authorized to adopt rules and to send them to the State Board of Education for approval or disapproval. This type of rule arrangement can cause delays in rule adoption.

¹⁴ <http://www.commonfund.org/pages/default.aspx>

Relationship of the College to the Dan Marino Foundation

The name of the Dan Marino Foundation is included in the name of the college, and while the educational programs at the college would appear to build on the work of the foundation, the relationship of the non-profit corporation—the foundation—to the public college is not clear.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that adults with developmental disabilities became employed, they would enjoy the benefits of an income and would contribute to the economy.

C. Government Sector Impact:

The OPPAGA study estimated that if the state paid the full cost of construction for a residential college serving 600 students, such as the one proposed in this bill, the cost would be \$36 million. Recurring operational funds for the school were estimated to be between \$1.2 million and \$40 million.¹⁵ The costs would be less if students paid tuition, though tuition is not authorized in the bill. Serving a smaller student population or leasing space from an existing facility could also reduce the cost.

VI. Technical Deficiencies:

None.

¹⁵ *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, pp. 7-8. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

VII. Related Issues:

Section 1 of the bill is substantially similar to s. 1002.36, F.S., which creates the Florida School for the Deaf and the Blind.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on April 5, 2011:

The committee substitute clarifies that two members of the college board of trustees will be from the Dan Marino Foundation.

CS by Higher Education on March 22, 2011:

The committee substitute expands student eligibility requirements to include students who did not graduate from high school and have passed the eligibility age for ESE funding. The membership of the college's board of trustees will include the chair and executive director of the college.

- B. **Amendments:**

None.